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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,395	03/19/2001	Michael A. Muller	00366.000125.	6004

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EXAMINER	
RETTA, YEHDEGA	

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
12/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/810,395	MULLER, MICHAEL A.	
	Examiner	Art Unit	
	Yehdega Retta	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-22,55-59,61-82,93,94 and 98-101* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4-22, 55-59, 61-82, 93, 94 and 98-101* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application.
6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to amendment filed August 17, 2009. Claims 1, 4-22, 55-59, 61-82, 93, 94 and 98-101 are still pending.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-9, 12-19, 22, 55-59, 61-62, 64-72, 74-76, 78-79, 93, 94, 98-101, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gardner et al. (US 6,064,978).

Regarding claims 1, 8, 9, 22, 55, 64-66, 71-72 and 77, Gardner teaches a server operable to receive formulation of a problem to be solved; receiving from a plurality of participants via a network *at least non-final suggested solution* to the problem (see fig. 1); distribute portions of an award to those participants *who contribute the at least non-final suggested solution to the problem the suggested solutions(see col. 3 lines 8-27)*; tools for controlling the distribution of the award; wherein the distribution of the portions of the award are varied (see col. 5 lines 18-38); wherein the distribution of the portions of the award are varied over the course of the development of the suggested solution (col. 3 lines 20-45). Gardner also teaches computer network within an organization e.g., corporate intranet and the reward provided by organizational or corporate recognition (see col. 2 lines 7-15).

Regarding claims 4, 56, 67, Gardner teaches managing a discussion of the problem and the suggested solutions and receiving and displaying the discussion in real time;

Regarding Claims 5, 12, 57 and 68, Gardner teaches receiving anonymously the formulation of the problem and the suggested solutions (col. 4 lines 1-3).

Regarding claim 6, 7, 58, 59, 69 and 70, Gardner teaches storing the formulation of the problem and suggestions and tools for controlling the distribution of portion of the awards (see col. 4 lines 57-67);

Regarding claims 13, 74 and 75, Gardner teaches blocking further development of a suggested solution (see col. 1 lines 53-65);

Regarding claim 14, Gardner teaches the participant to select on of the suggested solutions and control discussion in the context of the selected suggested solution (see abstract, col. 3 lines 20-27).

Regarding claim 15, Gardner teaches problem question related to company processes (see fig. 2-6).

Regarding claims 16-19, 61, 62, 76, 78-79, Gardner teaches receiving selection of competent authority from the other participants answering the question and facilitating a private problem resolution discussion between the first participant and the competent authority (see col. 3 lines 20-34); authority is preselected before the formulation of the problem (participants are registered before they can provide answers) (see col. 3 line 65 to col. 4 line 3).

Regarding claims 93, 94, 98, 99, 100 and 101, Gardner teaches determining a quality assessment based on the portion of award received (col. 3 lines 34-53);

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 20 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner et al. (6,064,978) in view of Experts Exchange How-To; "How Experts Exchange® Works"; http://web.archive.org/web/1997042101341/www.experts-xchange.com/info/howto.html. (Hereinafter Experts-Exchange)

Regarding claims 20 and 80, Gardner teaches competent authority from the other participants answering the question and facilitating a private problem resolution discussion between the first participant and the competent authority (see col. 3 lines 20-34), but failed to teach providing a negotiation forum between the competent authority and the client, it is taught by Experts-Exchange (see page 1 expert negotiating with the client for points and once the expert prepares and submits an answer to the question, the question is then locked and you must work with the expert for the time being).

Claims 10, 21, 63, 81 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner et al. (6,064,978) in view of Bahar (US 6,694,355).

Regarding claims 10, 21, 63, 81 and 82, Bahar teaches wherein the other participants are viewers of a television broadcast relating to the formulation of the problem and the suggested solutions and the presenter is a television presenter for the television broadcast (see col. 52-67); the system operable to thread the discussions (see col. 3 line 52 to col. 4 line 18). Bahar teaches the system to include all forms of network communications known to one in the relevant

technical art, such as the Internet, www, BBS, satellite system etc. It would have been obvious to one of ordinary skill in the art at the time of the invention to perform Gardner's questions and answers using any communication means as in Bahar for the intended motivation of allowing access through different communication means.

Regarding claims 11 and 73, Gardner/Bahar does not teach the presenter is selected by the other participants. Official notice is taken that is old and well known in the art of chat or whiteboard for the presenter to be selected by any of the participants. It would have been obvious to one of ordinary skill in the art at the time of the invention to select a presenter in order to provide access to the chat or white board.

Response to Arguments

Applicant's arguments filed August 17, 2009 have been fully considered but they are not persuasive.

Regarding to 35 U.S.C. 112, second paragraph rejection as being indefinite, Applicant asserts that the use of the phrase "at least non-final suggestion solutions" is believed to be entirely appropriate, particularly since one skilled in the art would clearly understand, in view of at least the cited parts of the specification, that the phrase (1) accounts for the ***possible*** iterative nature of the procedure, (2) ***does not necessarily limit the subject matter to a final solution***, and (3) particularly points out and distinctly claims the subject matter which Applicant regards as his invention. Based on Applicant's explanation and also as interpreted by the Examiner of the claimed subject matter (as indicated below) of the claim, the 112 rejection is withdrawn.

Claims 1, 55 and 65, recite "receive from a plurality of other participants via the network *at least non-final suggested solutions to a problem*" and distributing portion of the award to

those participants who contributed at least non-final suggested solutions to the problem. This phrase is interpreted to mean that for every problem received by the server, the server receives a non-final suggested solutions. The server also can receive a final solution but is an optional step (i.e. the final solution is possible but not definite). Also if a participant provides a final solution the participant is not awarded portion of the award, since the claim only recites distributing the award to participants who *contributed the at least non-final solution*. The claims also recite "wherein the distributions of the portions of the award are varied over the course of development of the suggested solutions **for the purpose of guiding the development of a final solution to the problem**". The bolded phrase is just intended use of the award being varied over the course, and no patentable weight is given. Since the server distributes award to participants who provided non-final suggested solution (before it has been determined that the problem has been solved), it is interpreted to mean that the participants are awarded for providing any suggestion (any answer).

Examiner would like to point out that the subject matter of a properly construed claim is defined by the terms that limit its scope. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim: statements of intended use or field of use. (see MPEP 2105),

Examiner also would like to point out that claims are given their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55,

44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily).

Applicant asserts that in Gardner no points are awarded to anyone until the answer is deemed complete. Applicant argues that although the asker can assign a quantitative evaluation facto to an answerer who provides part of the answer, the assignment is not an award of any type.

Gardner teaches the answer evaluation method is used to measure the quantity and quality of answers provided by answerers and **each answerer accumulates a bank of answer points, based on the number of questions answered and a quantitative evaluation of each answer provided by the question asker**. Gardner further teaches the answer evaluation system serves as an incentive to answer publisher questions and answerer are rewarded according to the quality and quantity of their answers as measured by the answer evaluation system (see col. 2 line 58 to col. 3 line 3). Gardner teaches (at step 100) a question asker A publishers a question Q and *assigns a number N of question points to it*; (at step 106) A determines whether one or more of the comments added are sufficient to constitute an answer or part of the answer; at step 108 quantitative evaluation is assigned to each comments that were deemed to constitute an answer or part of an answer (A may increase the number of points N assigned to the question, in order to attract more answerers). Gardner also teaches providing several incentives for answerers to earn answer points by answering questions and by earning high quantitative evaluations; public display 600 is provided with the best answerers ranked according to the number of answer points

each has earned (see col. 4 lines 57-65). Since Gardner teaches receiving a comment which is determined to be answer or part of answer, the comment that is deemed part of an answer is an intermediate solution to the presented problem (question). However the claim recites the server is configured to distribute an award to the at least one participant who contributed the at least non-final suggestion. Gardner also teaches that every answerer might be given the same evaluation in step (108) so that answer points are distributed uniformly among them (see col. 5 lines 24-38). According to applicant's specification points are awarded and the distribution of the offered prize to participating idea providers (answerers) who have acquired points worth money is guaranteed (see [0064]-[0065]). Same as applicant invention in Gardner points are assigned to the answerer before the problem is deemed solved and the points are awards.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622